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ABSTRACT

This document presents an analysis of part-time employment issues in California community colleges, including a review of historical developments of the law covering the employment of certificated personnel, a review of some benefits and problems associated with part-time teaching, and consideration of part-time faculty employment as a major issue in community colleges. Specific areas examined include: participation in campus affairs by part-time faculty; implications of collective bargaining pursuant to Senate Bill 160; classification of part-time regular and temporary employees pursuant to Senate Bill 696; need for clarification in the Education Code of rights of employment, termination by reduction in force, written agreement, and tenure or reemployment rights; and pro rata pay for part-time instructors. A legislative program is outlined to deal with the various issues associated with these areas. It is recommended that the Board of Governors of the California Community Colleges oppose legislation that would mandate pro rata pay or provide tenure for part-time faculty, seek to accomplish the legislative program described in this document, and consider the question of due process in relation to the provisions of the Education Code concerning temporary and part-time faculty. Appended are pertinent sections of the Education Code and a preliminary analysis of survey data on part-time faculty in California community colleges. (JDS)

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Board of Governors of the
California Community Colleges
February 18-19, 1976

Title: Legislation and Part-Time Employment

Staff Presentation: Allan L. Petersen, Director of Legislative Affairs
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Summary

1. This item deals with an analysis of part-time employment issues and proposals for Board-sponsored legislation.

2. This item includes a review of the historical developments of the law covering the employment of certificated personnel and a review of some benefits and problems associated with part-time teaching. It deals with part-time employment as a major issue in Community Colleges.

3. The Board's legislative committee recommends the following:

Recommended actions

The Board should adopt a motion to direct the Chancellor as follows:

1. Seek a consensus among Community College interest groups for the purpose of clarifying the Education Code in respect to temporary and part-time faculty in Community Colleges in such a way as to consider the question of due process.

2. Oppose legislation that would mandate pro rata pay or provide tenure for part-time faculty in Community Colleges.

3. Seek to accomplish the attached legislative program.

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Part-time employment

Employment of Community College instructors on a part-time basis has provided a number of benefits and a number of problems for students, part-time instructors, and colleges.

Benefits include the opportunity for students to study under instructors whose primary employment may be in industry or in other postsecondary institutions, and the opportunity for colleges to respond better to community needs with the financial resources available to them.

Problems associated with employment of part-time instructors stem from confusion about the meaning of the law pertaining to part-time instructional personnel, and differing opinions concerning the proportional benefits which part-time instructors should receive as compared to the benefits received by full-time instructors.

Although legislation in 1972 attempted to delineate provisions of law concerning the employment of certificated personnel in K-12 and Community Colleges, it left questions with respect to the employment of temporary and part-time personnel. Legislation since 1972 has not clarified the matter, and there is an evident need to clarify inappropriate or inconsistent language in existing law.

The Board previously directed the Chancellor to seek legislation to clarify inappropriate or inconsistent language in existing law as it pertains to part-time employment in Community Colleges. In addition, the Board opposed any legislation establishing tenure for part-time faculty or which mandated on pro rata pay for part-time faculty.

Legislation

The following four additional proposals for 1976-77 Board-sponsored legislation are recommended:

1. Provide trailer legislation to AB 1571 of 1975 to permit Community Colleges to set the charge for student health fees for nontraditional students.

2. Clarify the resident status and financial responsibility for summer school students situated in annexations of nondistrict territory.

3. Alter the Department of Finance role in the capital outlay detailed review process.

4. Make adjustments in the 1976 construction bond proposal language to permit approved capital construction projects to be augmented should bids be in excess of funds available, similar to existing Code language that applies to 1972 Bond Act language.

Background -- Legislation

This item deals with additional recommendations for Board-sponsored legislation in 1976. Following is brief description of what the measures would do and why they are needed:

1. Provide trailer legislation to Board-sponsored AB 1571 of 1975 which dealt with student health fees for nontraditional Community College students. The original language of the bill was designed to provide flexibility for each institution to determine fees to be paid by part-time students. However, a last-minute amendment to the bill changed this language in such a way that some colleges (depending on local county counsel interpretation) must now establish these fees on a prorated basis. While such an arrangement on the surface may seem logical, some county counsels have suggested that to "prorate" in the literal sense would result in an almost unlimited variety of fees, difficult and expensive to administer. This legislation specifically would permit districts an alternative in deciding such fees by restoring the word "decide" in place of "pro rate" when used in reference to student health fee charges in a local district. Also, this legislation would require that the health fee charged to summer school students would not exceed that charged per semester or quarter during the regular school year.

2. Clarify the resident status and financial responsibility for summer school students who reside in what is currently non district territory but which will be annexed July 1, 1976, before the summer session has been concluded. Under current law these students would be obliged to pay a nonresident fee for at least that portion of summer instruction occurring prior to July 1, 1976. A solution would be urgency legislation to set as the resident determination date the same date that summer school convenes for those areas of the state affected.

3. Alter the Department of Finance role in the capital outlay detailed review process at the project planning guide stage.

   This measure would give the Department of Finance and the Chancellor's Office more time to review district preliminary facility plans. It also would reduce, by more than half, the amount of time it takes for districts to learn from the Department of Finance and the Chancellor's Office whether their proposed projects have been approved, a factor that would help districts in their planning.

4. Allow a previously authorized Community College construction project to be eligible for augmentation with state funds when the total cost, based on established bidding procedures, is in excess of the funds available. This would also stipulate that eligibility is based on going to bid within one year of the appropriation.

The Government Code presently sets forth provisions for augmentation of a Community College project for which an appropriation is available but when such project cannot be undertaken because the total project cost, based on bids, is in excess of the funds available. The code further requires that the augmentation allocation be granted, if otherwise justified, only on the condition that the "contract award" be made within one year from the effective date of the appropriation, but it applies only to the Community College Construction Program Bond Act of 1972.

This proposal is to re-establish the 1972 procedure to apply to the proposed Community College Construction Bond Act of 1976 and to allow for a project to be eligible for augmentation, provided that the project goes to bid (instead of contract award) within one year of funding of construction for a project eligible for augmentation.

In October 1975 the Board authorized the staff to continue efforts to establish separate code sections for Community Colleges in cooperation with a special review committee to eliminate confusion over public school-related code section application to Community Colleges. (Assembly pre-print bill #2 - Leroy Green)

An ad hoc committee to the special review committee, after considerable deliberation, recommended that the above provisions be enacted only in the K-12 part of the reorganized code because they are inconsistent with the body of law relating to employment of certificated personnel in the Community Colleges.

The staff will continue to work for passage of the bill but will try to get appropriate amendments into it.

Background -- Part-Time Employment

Part-time employment is probably one of the most pressing issues in the Community Colleges. The use of part-time instructors has increased, and a thorough review of the benefits and problems of part-time employment is necessary.

Perhaps the most important benefit to students from part-time teaching is the opportunity to study under instructors whose primary employment may be in industry or in other postsecondary institutions. Thus, part-time instructors may include such persons as university professors, space scientists, industrial managers, private businessmen, and skilled craftsmen.

In some cases these instructors spend many hours beyond those for which they are paid, working with students through individual conferences, group sessions, and field trips. Many instructors provide this extra service because of a genuine interest in the learning of individual students and as a means of making some general contribution to the communities served by the college. This specialized expertise and willingness to provide students with a variety of valuable educational experiences make the part-time instructor a valuable asset in providing the best education possible for those who attend Community Colleges.

In addition to benefits to students, employment of part-time instructors enables Community Colleges to respond better to community needs with the financial resources available. For example, colleges are requested frequently to provide special programs for a short duration or try new programs whose duration is uncertain. Colleges are also requested to provide additional sections of classes for a particular term. Finally, the advent of outreach programs and off-campus centers has contributed to greater use of part-time instructors. Employment of full-time instructors in such cases may be impractical due to the nature of the teaching assignment. On the other hand, employing part-time instructors enables these institutions to meet the community need without entering into a long-range contract for services which may no longer be required after the immediate need is met. Thus, Community Colleges are able to be responsive while remaining fiscally sound.

While the need for clarification remains, events occurring since April 1975 justify re-examination of the issues by the Board. Studies not available last year showing the extent of part-time employment, use by districts, and "other employment" features about such employees are now available for Board consideration.

Collective bargaining (SB 160--discussed in detail later) will no doubt have substantial impact on part-time employment.

Further, judicial opinions on pertinent provisions of the Education Code stress the need for legislative review of current code provisions.

This item examines part-time employment under what appear to be two major areas of concern--status and pro rata pay. Within "status" the question of re-employment rights for part-time employees is examined.

Prefatory to either issue is an overview of the part-time employment population. National studies indicate increasing use of part-time instructors in Community Colleges during the past decade, the trend apparently accelerating recently. Bender and Breuder (1973) estimate that equal numbers of part-time instructors and full-time instructors were used nationally during 1974. Florida Community Colleges, for example, reported a 53/47 ratio part-time; i.e., full-time ratio for last year, while Illinois reported a ratio of 63/37 (see Lombardi, 1975).

The Illinois practice appears most nearly like that in California. (See Appendix B for source data.) Two recent studies -- one by the California Community College Trustees of the California School Boards Association (CCCT/CSBA) and the other by the California Community and Junior College Association (CCJCA) provide data. Of each 10 faculty in California Community Colleges, two teach only full-time, two teach full-time and part-time on an overload basis, and the remaining six teach only part-time. Thus, half the full-time faculty also teach a part-time overload. (See charts developed by staff from CCJCA data.)

62% of graded instruction is taught by full-time instructors, 10% by full-timers teaching a part-time overload, and 28% by part-timers from off-campus. Thus, about 38% of all instruction is taught by part-timers. It further appears that part-timers in graded courses teach an average of 4.5 hours a week, while those in ungraded courses teach an average of three hours.

Most part-time instructors are employed full-time or part-time elsewhere. Over one-third of part-time instructors are employed in a non-teaching occupation, one-fourth are full-time instructors on overload, and one-fifth teach either in K-12 or in another postsecondary institution. Between 10 and 15 percent of part-time instructors appear to be otherwise unemployed.

Variation in use of part-time instructors from district to district might be expected to relate to district organization and location, student characteristics, growth patterns, and financial situation. Analysis of CCCT/CSBA data indicates that use of part-time instructors is higher where:

(a) one year enrollment growth is higher, particularly in evening and part-time students,

(b) proportion of evening students is higher,

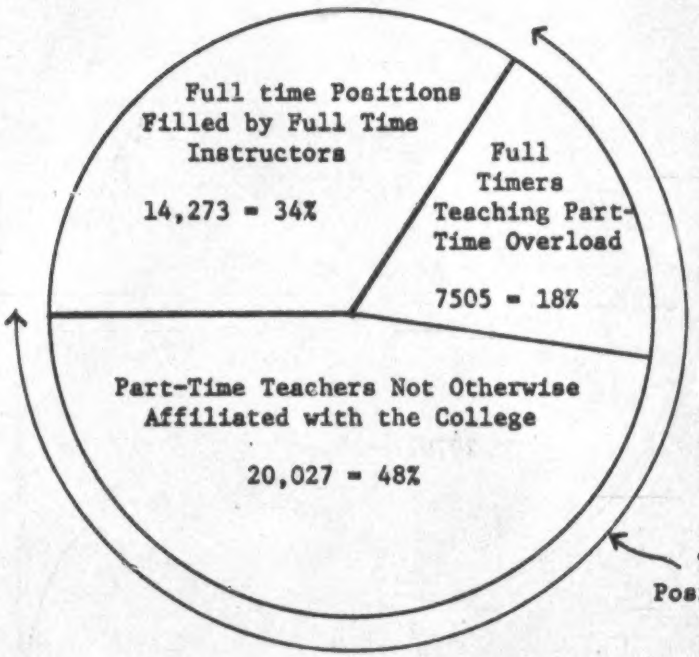
(c) districts are older,

(d) districts are poor (in assessed value per student),

and moderately related also to

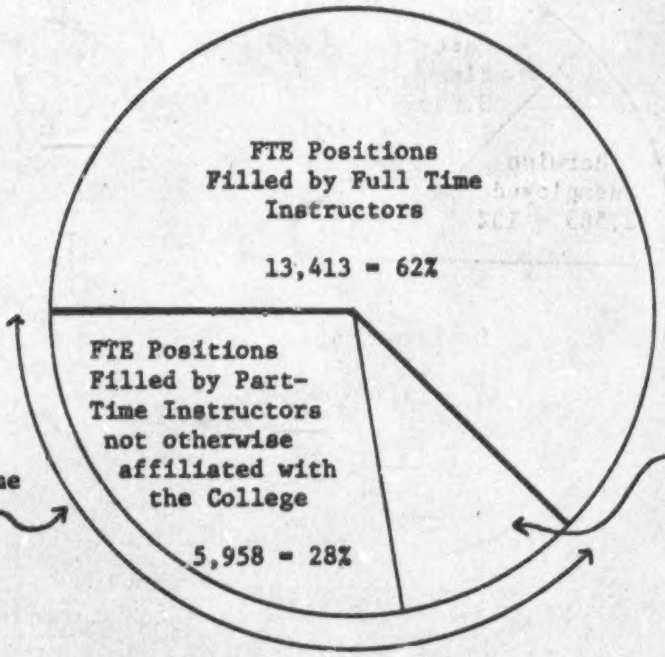
(e) urban location.

EMPLOYEE POSITIONS IN GRADED COURSES - 41,805


Full time Positions Filled by Full Time Instructors
14,273 = 34%
Full Timers Teaching Part-Time Overload
7505 = 18%
Part-Time Teachers Not Otherwise Affiliated with the College
20,027 = 48%

Total Part-Time Positions: 27,532 = 66%

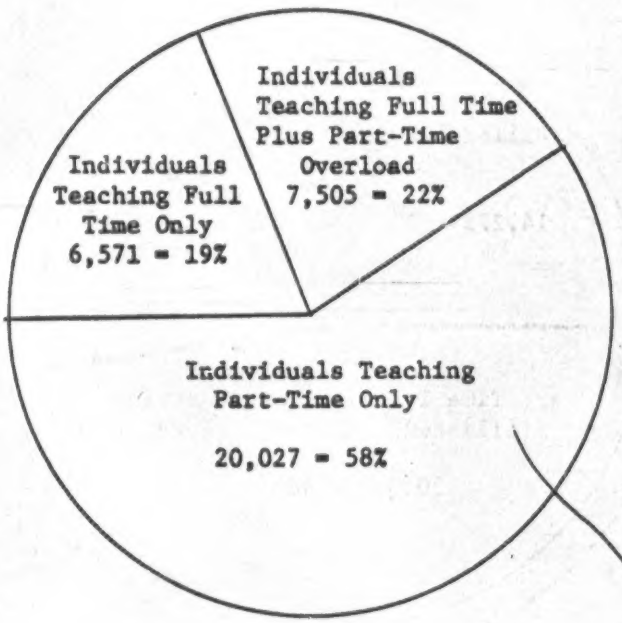
FULL TIME EQUIVALENT POSITIONS IN GRADED COURSES -21,546


FTE Positions Filled by Full Time Instructors
13,413 = 62%
FTE Positions Filled by Part-Time Instructors not otherwise affiliated with the College
5,958 = 28%

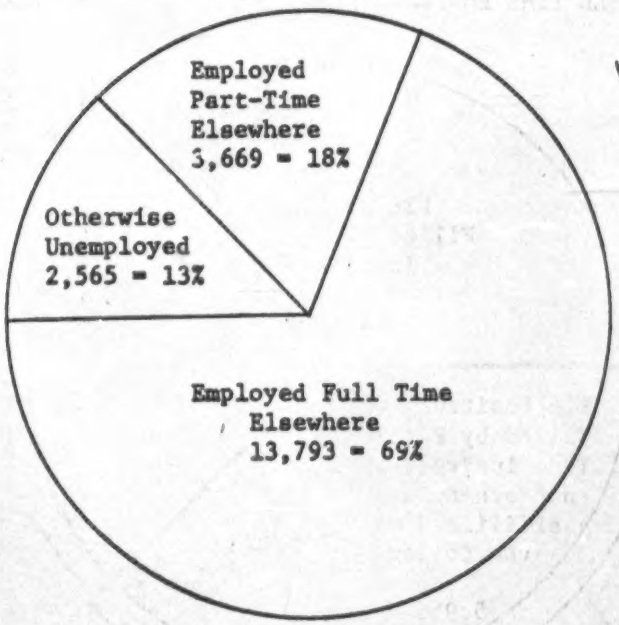
FTE Positions Filled by Part-Time Instructors 8,133 = 38%

FTE Positions Filled by Full Timers on an Overload Basis 2,175 = 10%

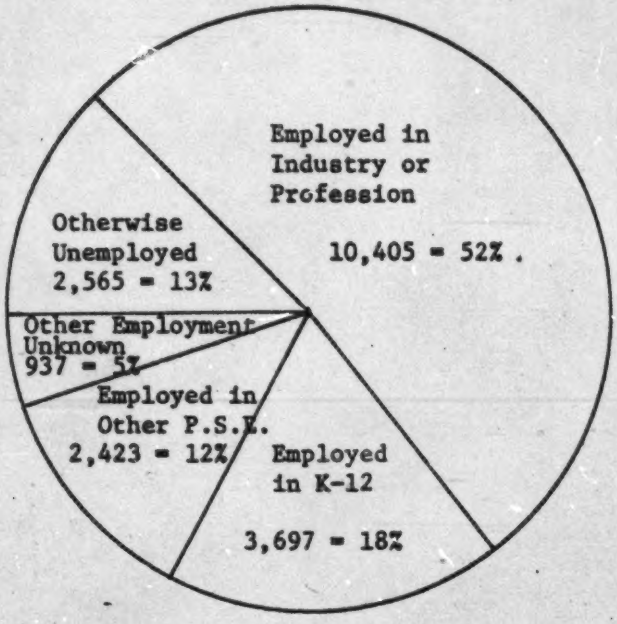
INDIVIDUALS TEACHING IN GRADED COURSES - 34,300


Individuals Teaching Full Time Plus Part-Time Overload
7,505 = 22%
Individuals Teaching Full Time Only
6,571 = 19%
Individuals Teaching Part-Time Only
20,027 = 58%

INDIVIDUALS TEACHING PART-TIME ONLY IN GRADED COURSES - 20,027



INDIVIDUALS TEACHING PART-TIME ONLY IN GRADED COURSES - 20,027



COLLECTIVE BARGAINING

SB 160

The issues dealt with in this item are within the area of collective bargaining as provided for in SB 160, operative for all purposes on July 1, 1976.

That measure, briefly described, replaces the Winton Act as the body of law governing employer-employee relations between K-12 and Community College districts and their employees.

Exclusive representation for certificated and classified employees is provided, with defined units and methods of obtaining exclusive representation, as well as specifying the scope of representation by express limitation to matters relating to wages, hours of employment, health and welfare benefits, leaves and transfer policies, safety conditions for employment, class size, procedures for evaluation, organization security and grievance procedures. Right of consultation on definition of educational objectives, determination of educational content of courses and curriculum, and the selection of textbooks are given to exclusive representatives of certificated personnel. All other matters are reserved to the district trustees and may not be made subject to meeting and negotiating.

Written agreements between the district and the exclusive representative not to exceed 3 years are authorized. Organizational security and binding arbitration in the interpretation, application or violation of an agreement are also provided.

The measure establishes a three-member statewide Educational Employment Relations Board, appointed by the Governor with advice and consent of the Senate, with five-year terms after initial staggering. The board will have broad duties and responsibilities with respect to certification of exclusive representation, conduct of elections, appointment of mediators and fact-finding panels, as well as making unit determinations.

Detailed procedures are set forth for impasse and for a mediator to be named either by the board or names to be provided from which the parties will select. The mediator is given time to meet with the parties in an attempt to resolve the dispute. Failing that, the mediator or the parties may request fact-finding panels to be established by or with the assistance of the board, which will meet with the parties and continue to effect a settlement.

Upon time limitations, the fact-finding panel is required to submit findings of fact and recommendations of settlement, which are advisory only, to the respective parties in private. The district is required to divulge them after a ten-day period if the matter is not settled.

The measure contains the same language against strikes now found in the Winton Act.

While the impact of the legislation upon employment of part-time instructors may be subject to differences of opinion as to substance or degree, its enactment cannot go unstated in this item.

SB 160 requires all classroom teachers to be in the same unit. Without definition as to the quantity of work performed by the classroom teacher, it is presumed to include part-time instructors. The conclusion is supported by the following:

Section 3545 (b) as added by SB 160, requires that:

> "A negotiating unit that includes classroom teachers shall not be appropriate unless it at least includes all of the classroom teachers employed by the public school employer, except management employees, supervisory employees, and confidential employees."

"All of the classroom teachers" as used in this section appears to require that part-time employees be included within SB 160 and within the same bargaining unit as full-time employees.

Further support for the conclusion is that the Act defines "public school employee" as "any person employed by any public school employer except persons elected by popular vote, persons appointed by the Governor of this State, management employees, and confidential employees." (3540.1 (j))

Whether part-time employees are covered will no doubt be addressed by the new Employment Relations Board established by SB 160.

The district, full-time instructors, or the part-time instructors as a class may want to bring this issue to the Employment Relations Board for resolution. Under the new law the employer or organization under specified conditions may file a petition with the Employment Relations Board to determine the appropriateness of a unit.

The Employment Relations Board's decision is final and not subject to judicial review except when the Employment Relations Board joins in such review or when the issue is raised in defense of an unfair labor practice complaint.

The significance of this question cannot be overemphasized. If the part-time employee is covered, his vote may well control the outcome of the exclusive representation election. This, of course, depends upon how many part-time instructors vote and the outcome of that vote.

Where an election is undertaken the ballot must contain a choice of "no representation" as well as the organization or organizations seeking exclusive representation. The choice receiving the majority of the votes cast will prevail. Where no choice on the ballot receives a majority of the vote cast, a runoff election is to be held between the two choices receiving the largest and second largest votes cast.

Since "wages" and "hours of employment" are within the scope of negotiable items, the negotiation process will no doubt relate indirectly, if not directly, to part-time employment.

The "wages" item will bring to the negotiating table the matter of part-time pay. Clearly a major thrust will be to increase the pay scale of all employees, including part-time instructors.

The weight of that thrust on other items relating to part-time employment as well as wages will depend, in large part, on the strength of part-time employees within an employee organization once that organization becomes the exclusive representative. If part-time instructors are given an equal vote enjoyed by full-time instructors, the cumulative strength of part-time instructors may be control of the negotiation efforts of the exclusive agent.

"Hours of employment" will at least indirectly affect part-time instructors. The issue of overload for full-time instructors, clearly a negotiable item, will affect the availability of both positions and selection of part-time instructors. Moreover, this participation, with increased salaries for part-time employees, may well cause more full-time employees to engage in overload work. Conversely, a part-time oriented exclusive representation may lead to less overload work for full-time instructors.

An interesting comment on the effect of prorata pay was made by John Lombardi in his topical paper* on Part-Time Faculty in Community Colleges. Dr. Lombardi commented:

> "If prorata pay is adopted more widely the effect may be for more rather than fewer part-time instructors since with prorata pay comes more security for the instructor and probably prorata tenure based on the proportion of a full load. Such part-time instructors will not be as prone as the untenured to give up their part-time employment. There will also be a greater inducement to seek such assignments by those who prefer part-time to full-time employment. With a large corps of such part-time instructors their influence on hiring practices may give unemployed teachers greater priority to part-time employment than they now possess."

Evaluation is expressly negotiable and will no doubt bring such process into full play for part-time employees. The CCJCA report indicates that three out of four of the colleges have an evaluation policy for part-time employees.

In addition, other benefits of employment not now given uniformly throughout the state to part-time employees will probably become commonplace through the negotiation process.

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* Educational Resources Information Center, Clearinghouse for Junior Colleges, Topical Paper Number 54, December 1975.

Some of these benefits are:

-- Sick leave -- 85% of the colleges extend sick leave to part-time employees.

-- Bereavement leave with pay -- 53% of the colleges extend this leave to part-time employees.

-- District-paid or subsidized health plan -- 13% of the colleges extend health plans to part-time employees.

These percentages come from the CCJCA report and obstensibly do not include the 4,868 certificated employees related to ungraded classes, 90% of whom are employed part-time.

Participation in campus affairs

Participation in campus affairs has become a major concern of part-time faculty. On many campuses part-time faculty members have not been able to vote on policy matters of institutional importance. This right has been reserved for full-time faculty only. In some instances part-time faculty have very little impact on matters within their own instructional departments. Even in such areas as text book selection, course content and curriculum development, their impact is many times almost negligible.

Many part-time instructors feel that this situation must change if they are to be effective in carrying out their teaching responsibility. This position is receiving support from an increasing number of full-time faculty members as reflected through the policy positions of various faculty organizations.

Those who have not been inclined to grant part-time faculty the right to vote on matters of substance argue that the reason for their resistance is not based on the relative value of part-time instructors to the instructional program of the institution, but rather on the temporary status of most part-time instructors, many of whom as transient, leave at the end of a term, and never return. It may not be wise for them to make decisions on matters of substance which would be binding on those persons most likely to remain at the institution over a considerably longer period of time. Those who argue for this position say that since full-time instructors compose the more permanent group, it should be they who, among the faculty, make decisions regarding the direction in which the institution should move.

Debate on these issues may continue. However, SB 160 brings part-time and full-time employees to the same footing with regard to educational objectives, course content and curriculum and textbook selection. While these matters are not negotiable under SB 160, the exclusive representative has the right to consult with the district on these matters.

Other concerns expressed by part-time faculty are:

-- Hiring procedures. In some districts hiring of new part-time instructors is done by the central personnel office rather than by a faculty selection process as with full-time faculty. Over forty percent of the colleges use division or department personnel with sole responsibility for screening and making recommendations to the administration for the initial hiring of part-time instructors and over thirty-five percent of the colleges use joint actions of the division or department and the administration for initial hiring of part-time instructors.

-- Affirmative action in hiring of part-time instructors. Over seventy-five percent of the colleges use affirmative action in the same manner as used in the employment of full-time instructors.

-- In-service faculty development of orientation. Part-time instructors raise concern over the absence of orientation for new part-time employees or on-going training efforts. While thirty-seven percent of the colleges provide in-service training for part-time employees, this must be contrasted to seventy percent of the colleges providing the same for full-time instructors.

-- Office space. Absence of office space for part-time employees is also expressed as a concern. One-fourth of the colleges provide office space.

These and related contentions regarding difference of treatment of part-time instructors from the full-time faculty tend to cause part-time instructors to feel inferior on the institutional level.

As surmised above, the advent of collective negotiation will in the long run tend to bring uniformity of treatment to both full-time and part-time instructors.

STATUS

A discussion of the status of part-time instructors appropriately includes reference to the history of the Education Code concerning Community College employment generally.

The employment of certificated personnel in elementary, secondary schools, and Community Colleges is governed by Article 3.0 (commencing with Section 13251) of Chapter 2 of Division 10 of the Education Code. These many sections cover employment of probationary, permanent (in Community Colleges "contract" and "regular"), temporary, substitute and part-time employees.

The Article deals with the basic authority of employing districts, order of employment, qualification for employment, classification of employees (certificated) and effects of rehiring less than full-time employees, as well as the provisions covering full-time employment.

One characteristic of many of the provisions is that no distinction is made between K-12 and Community Colleges. This feature, not uncommon to the heritage of Community Colleges emerging from a K-14 system, lies at the very heart of the confusion that prevails today, not only with sections in the code that have been in existence, but also with recent amendments to such sections, as well as the addition of new legislation.

A second characteristic, and a major contribution to the confusion, is the application of provisions relating to employment of "temporary" and/or "substitutes" to employment of part-time employees. These are discussed in detail later in this item.

In 1971, legislation was enacted which provided substantial separation of treatment of certificated employees in the K-12 and Community College systems.

SB 696

Chapter 1654, Statutes of 1971 (SB 696, Rodda) became operative in September 1972. That measure constituted a comprehensive body of law specifically governing the employment of certificated employees by the Community Colleges. Concurrently, the "Stull Bill," Chapter 361, Statutes of 1971, applying exclusively to the elementary and secondary certificated employees, was enacted. While the two measures did not bring an end to the dual application of many sections to K-12 and Community Colleges within Article 3.0, existing prior to 1972, SB 696 attempted to establish criteria to determine which sections of Article 3.0 were to apply thereafter to Community Colleges and, further, added a new statutory scheme for acquisition of tenure on permanent employment in Community Colleges.

In general, the criteria state that existing provisions of law will be applied to Community Colleges in a manner consistent with the new law of SB 696. (See Sections 13345, 13480 and 25490 in Appendix A.)

Prior to SB 696, non-tenured employees were called "probationary," and tenured employees were called "permanent" employees. This is still true for K-12 employees. SB 696 renamed the "probationary" employee a "contract" employee either under the first-year contract or second-year contract, and a "permanent" employee is now called a "regular" employee in the Community Colleges.

Under SB 696, certificated personnel in Community Colleges obtain "regular" (permanent) employment after 2 years of "contract" (probationary) standing, while Chapter 361 made no changes in the 3-year probationary requirement for elementary and secondary certificated personnel. Moreover, under SB 696 an employee rehired under a contract for a second year has a right to a hearing if not rehired for a third year, whereas the contract employee in the first year does not.

SB 696 did not, however, provide absolute definition, in terms of quantity of service of the various kinds of employees to distinguish between full- time and less than full-time employees, or between part-time, temporary or substitute employees.

To appreciate the differences, one must resort to provisions outside SB 696, as well as provisions within that law, to gain some insight as to the categories of certificated employees.

Section 13345.05 (within SB 696, see Appendix A) provides in part: "(a) 'Contract employee' means an employee of a district who is employed on the basis of a contract in accordance with the provisions of Section 13346.05 or subdivision (b) of Section 13346.20. (d) 'Regular employee' means an employee of a district who is employed in accordance with the provisions of subdivision (c) of Section 13346.20 or Section 13346.25." The sections referred to in either definition relate to contractual classification without further definition of time of service.

Section 13328.5 (outside of SB 696) defines "complete school year," which aids in the understanding of a full time employee:

> "Notwithstanding Section 13328, a probationary employee employed by a Community College district or a Community College maintained by a unified or high school district who, in any school year consisting of two semesters or three quarters, has served more than 75 percent of the number of hours considered as a full time assignment for permanent employees having similar duties in the Community Colleges of the district in which he is employed, shall be deemed to have served a complete school year."

Section 13328 (outside of SB 696, see Appendix A), applicable to K-12, defines "complete school year" for probationary purposes as "at least 75% of the number of days the regular schools were maintained" and for evening schools "75% of the number of days... evening schools are in session..."

Thus, one may define full-time employment, whether contract or regular, as service over 75% of the number of hours considered full-time assignment as established by the district.

The districts have a variety of definitions for full-time load, generally a 15-hour teaching load, with other duties bringing the work week up to 35-40 hours, not including overload work.

Part-time employee: SB 696 does not define a part-time employee. Section 13337.5 (enacted 1967), however, provides:

> "Notwithstanding the provisions of Section 13337, the governing board of a school district maintaining a community college may employ as a teacher in grade 13 or grade 14, for a complete school

year but not less than a complete semester or quarter during a school year, any person holding appropriate certification documents, and may classify such person as a temporary employee. The employment of such persons shall be based upon the need for additional certificated employees for grades 13 and 14 during a particular semester or quarter because of the higher enrollment of students in those grades during that semester or quarter as compared to the other semester or quarter in the academic year, or because a certificated employee has been granted leave for a semester, quarter, or year, or is experiencing long-term illness, and shall be limited, in number of persons so employed, to that need, as determined by the governing board.

"Such employment may be pursuant to contract fixing a salary for the entire semester or quarter.

"No person shall be so employed by any one district for more than two semesters or quarters within any period of three consecutive years.

"Notwithstanding any other provision to the contrary, any person who is employed to teach adult or Community College classes for not more than 60 percent of the hours per week considered a full time assignment for permanent employees having comparable duties shall be classifed as a temporary employee, and shall not become a probationary employee under the provisions of Section 13446."

The last paragraph of this section, the so-called "60% rule," has, since its enactment, been construed as separate from the first three paragraphs of the section and is generally regarded as the basic authority of Community College districts to hire part-time instructors without such employees obtaining any probationary or permanent status or rights.

As evident of reliance on the 60% rule, in about 85 percent of the colleges, part-time instructors are limited to a 60% load or less. The average load for all part-time instructors was estimated to be 30 percent or 4.5 hours.

Section 13309 (see Appendix A) provides a form of part-time tenure in which an instructor of classes for adults serves sufficient probationary time (three years) to become eligible for permanent classification, and such tenure is limited and equivalent to the average number of hours per week the instructor has served. This section applicable to K-12 is, however, regarded as subject to the limitations in 13337.5 for Community College purposes.

Temporary employee

SB 696, as originally enacted, contained a new section (13446.40), defining "temporary" employees as any certificated employee serving over 75% of the days of the academic year without reference to a minimum number of hours.

That new definition of a "temporary" employee would have negated the limitation of the 60% rule of Section 13337.5. Therefore, legislation (AB 1779) was enacted in 1972 which repealed that definition and, further, for a two-year period, expressly provided the authority of districts to hire temporary and substitute employees to be under Sections 13336 and 13337.5. The new section, however, was repealed by the language of AB 1779 in 1974. Notwithstanding that repeal, the Attorney General has concluded that Section 13337.5 is still operative.

The first three paragraphs of Section 13337.5 (cited in full above) authorize districts to employ and classify as a temporary employee one to meet higher enrollment conditions or to replace a certificated employee on leave for a semester, quarter or year, or one experiencing long-term illness.

Section 13337 (see Appendix A) provides for employees hired for day to day under specified conditions. The last paragraph of Section 13336 (see Appendix) also refers to temporary employees, but without definition.

Substitute employees: "Substitute" employees are covered in Sections 13333, 13334, 13336, and 13336.5. (See Appendix A) None of these sections defines "substitute," except for 13336, which provides only that substitutes are those persons employed to fill positions of regularly employed persons absent from service.

Part-time regular

SB 696 refers to a "part-time regular" employee. Unfortunately, neither the manner of acquiring such status, nor the definition of such employee, is provided. The section speaks of service for less than 75% of the number of days the colleges are maintained and is, therefore, probably intended to be those persons who teach over 60% of the hours per week contemplated by the last paragraph of Section 13337.5, but less than 75% of the hours per academic year.

SB 696 requires substitute and short-term employees to be employed as "temporary" employees, and districts are required to employ all certificated employees as a "contract," "regular" or "temporary" employee. (Sections 25490.25, 13346, see Appendix A.) As was noted, Section 13337.5 requires the part-time person, employed 60% or fewer of the hours per week, also to be classified as a temporary employee.

This common classification as "temporary" is used for three distinct kinds of employees -- "substitute," "temporary" and "part-time" employee -- and has generated great difficulty in administration of the provisions of SB 696.

As will be discussed, subsequent legislation, judicial interpretations and Attorney General opinions have not brought desired clarity or consistency to the interplay of SB 696 and other provisions in the Code dealing with part-time employment.

In addition, legislative amendments and additions to provisions that were K-14 in application prior to 1971, and thought by many to be K-12 in application, have caused great confusion by interpretation as applying to Community Colleges.

As was noted, those sections on part-time, temporary and substitute employees preceded the enactment of SB 696. In addition to the problem of having to classify all non "contract" or non "regular" employees as "temporary" and thereby invoking other sections operating on "temporary" employees, the districts encounter problems with subsequent legislation.

As was pointed out, many provisions of the Education Code on employment of temporary personnel applied to K-12 and Community Colleges. A 1972 amendment to one of those sections has created substantial problems for Community Colleges as to whether the amended version applies to them. SB 368 (Chapter 279, Statutes 1973) amended Section 13336.5 relating to K-12 temporary and substitute employees. Bearing in mind that Chapter 1654 established a two-year probationary period for Community Colleges as opposed to the three-year period for K-12, SB 368 requires districts to hire, for a second year, a substitute or temporary, who had served over 75% of the days of the employee's first year of service. If a vacancy occurs for which such employee is certified, the district must rehire such employee, classify him or her as a "probationary" employee, and the first year of service as a substitute must be credited as a "probationary" year of service. The bill was intended for K-12 districts and causes no problems in a three-year probationary system.

For Community Colleges, however, such a rule would give temporary and substitute employees greater rights than contract employees of the first year. While the Attorney General concluded that SB 368 does not apply to Community Colleges, some districts are advised by their counsels to assume that it does.

Cases

Several recent cases touch upon the matter of part-time employment. The factual background and relief sought are, or have been, to establish the non-"temporary" character of persons employed under the 60% rule and to obtain a right to continued re-employment by court order.

The courts have dealt with a variety of facts relating to hours of employment of persons not employed for full-time service. Unfortunately, no Appellate or Supreme Court case has ruled on the status of a person employed solely under the provisions of the so-called 60% rule, although litigation involving such employees is under way or currently on appeal.

A recent District Court of Appeal case has cast a new interpretation on the 60% rule of Section 13337.5. In Ferner vs. Harris (1975) the court observed that, in the particular case, the plaintiff instructor was not

hired under the conditions of the first three paragraphs of Section 13337.5, and, therefore, the fourth paragraph of that section could not be relied upon by the district.

This holding, apparently not litigated at the trial level but raised for the first time on appeal, is opposite the generally-held view that the last paragraph of the section is independent of the first three.

The holding must be viewed with caution. The first three paragraphs have generally been applied to the true "temporary" employee and limited to the conditions stated (i.e., need for additional certificated employees for grades 13 and 14 during a particular semester or quarter because of the higher enrollment of students in those grades during that semester or quarter in the academic year or because a certificated employee has been granted leave for a semester, quarter, or year, or experiencing long-term illness, and shall be limited, in number of persons so employed, to that need).

These conditions and the restriction of the third paragraph (no employment for more than two semesters or quarters within 3 consecutive years) are not included in the last paragraph, which starts with "notwithstanding any other provision to the contrary," and seem entirely independent. The entire section envisions two separate kinds of employees--the "replacement or higher enrollment" kind of temporary employee and the "60%-or-less" kind of employee.

In Balen vs. Peralta Junior College District (1974) the California Supreme Court observed that part-time instructors may attain an "expectancy of reemployment." While the plantiff had been employed in the district prior to the enactment of Section 13337.5, the court addressed the issue of hiring and terminating persons in less than full-time employment. The court said:

> "The essence of the statutory classification system for school employees is that continuity of service restricts the power to terminate employment which the employing institution's governing body would normally possess. Thus, the Legislature has prevented the arbitrary dismissal of employees with positions of a settled and continuing nature, i.e., permanent and probationary teachers, by requiring notice and hearing before termination. Substitute and temporary teachers, on the other hand, fill the short range needs of a school district and may be summarily released, absent an infringement of constitutional or contractual rights. Because the substitute and temporary classifications are not guaranteed procedural due process by statute, they are narrowly defined by the Legislature, and should be strictly interpreted."

The court further said:

> "The probationary plan envisions a two-fold purpose: it allows the new teacher sufficient time to gain additional professional ex-

pertise, and provides the district with ample opportunity to evaluate the instructor's ability before recommending a tenured position. A part-time instructor, unlike the day-to-day substitute, generally serves under conditions comparable to those of his full time counterpart; thus there is no reason for differentiating between their statuses for the purpose of attaining probationary classification, nor has the Legislature directed us to do so. (6) The law is well settled that tenure in a junior or community college may be attained by teaching in other than regular day-time classes: e.g. credit may be achieved by teaching in evening classes" (cases cited).

Finally, without amplification, the court referred to a rehiring practice and the creation of "an expectancy of reemployment," citing Perry v. Sindermann, a U.S. Supreme Court Case, that speaks to vested property rights in employment.

The holding in the Balen Case was based on other grounds, but the suggestion remains that some form of property right may well develop in a re-employment setting, giving rise to notice and hearing rights as discussed below.

In a more recent case (Alameda Superior Court # 449204, 1975) the Superior Court has granted tenure to various instructors at 40%, 31%, 50% and 33-1/2% full-time employment. The Court issued no basis for the order however, and the matter is now before the District Court of Appeal.

A recent court Attorney General opinion (58 OPS Cal Atty Gen 703) observed:

> "Tenure for a community college instructor is acquired if he or she is rehired after completing a second consecutive year as a contract (probationary) employee. It is not necessary to compare the number of hours the employee worked with the number of hours worked or which would be worked by a full-time permanent employee in order to ascertain whether an instructor has acquired tenure."

The question asked was "what constitutes a year of service for a credentialed employee" and was directed at full-time employment. While the Chancellor's Office has requested a reconsideration of the opinion, its rendition is further attestment of need for legislative clarification of the employment provision of the code.

In the Balen case, the court observed, citing cases, that:

> "The classification system has precipitated recurring litigation; teachers not infrequently seek the greater degree of position permanency which a higher category affords... Concomittant with such litigation has been an unprecedented growth in the state's

education statutes and administrative codes. As a result of the intertwining of changing legislation classifications and interpretative court decisions, it is understandably difficult for an individual teacher to define conclusively his status at a particular time. The instant case arises within this framework."

This difficulty cannot be overstated and is confronted as much by districts in attempting to ascertain, through the employment provisions of the Education Code, what employee has what standing as a result of service rendered and what right of re-employment, if any, has been obtained by the employee.

CLARIFICATION

While the Board of Governors is already on record regarding clarification of the code, that effort may not be successful unless the issues of re-employment rights and collateral issues are resolved.

Rights of reemployment

In the Baien case, cited above, the California Supreme Court referred to an "expectancy of reemployment" which may constitute a property right and, as such, require procedural due process to terminate.

This procedural due process is generally regarded as notice and a right to a hearing. Both give rise to a determination of release for cause--that is, the employer must specify why the employee is not to be rehired and must be able to substantiate that reason under attack from the employee.

To some observers this is tenure. To others it is simply called "due process." "Tenure" is a notion of permanent employment and academic freedom, while "due process" is in reality not a right or vested interest but rather a procedure whereby a right or interest is protected. It embraces fair play in protection of those rights or interest by requiring procedural safeguards against unnoticed and/or arbitrary action.

California's certificated employment system has two kinds of hearings relating to termination of employment -- one for the second-year contract employee and a second type for the "regular" employee. The regular employee has "tenure" in the sense that tenure means an absolute right to re-employment but for misconduct as specified in law.

A review of re-employment rights of contract and regular employees may be helpful.

A full-time certificated employee is hired for a trial period under a contract for one year. This person is a "contract" employee for the first year and is the same as a "probationary employee" in the K-12 system. This employee has no right to a hearing if the district decides not to hire the employee for a second year.

If the district hires the employee for a second year, that person is a "contract employee" of the second year and is entitled to a "hearing" if the district fails to rehire this person for a third year.

The "hearing" to which the second-year "contract" employee is entitled is to determine if the district has cause not to rehire the employee and the "cause shall relate solely to the welfare of the school and the pupils thereof and provided that cause shall include termination of services for the reasons specified in Section 13447." Thus, one "privilege" enjoyed by the contract employee of the second year is the right to a hearing to establish cause for termination.

If the employee is rehired for a third year, this person becomes a "regular" employee (same as K-12 permanent employee) and may not be dismissed other than for cuase as set forth in Education Code Section 13403 or released under layoff provisions of 13447.

The "hearing" for dismissal of a "regular" employee is substantially different from the hearing for the second-year contract employee in that the regular employee may be dismissed only for specified circumstances. (Section 13403, see Appendix A.) Generally speaking, termination of a regular employee requires misconduct on his or her part.

SB 696 provides that temporary employees may be dismissed at any time (Section 13482, see Appendix.) Thus, from the legal standpoint, part-time employees, within the framework of the provisions of law and judicial opinions observed, either are temporary, as the Education Code has been generally interpreted, whose employment is terminable at will of the district, or are employees whose continued employment will result either in "contract" or "regular" employment classification with all rights flowing from such classification.

It appears that, left to the courts to resolve, the question will, on a case-by-case basis, evolve some form of continued right of re-employment, with required notice and hearing for cause to terminate.

Other issues related to reemployment rights include lay-off and rehire rights.

Termination by reduction in force

Under Section 13447 (see Appendix A), applicable to both K-12 and Community Colleges, regular and contract employees may be laid off only if:

> "(a) in any school year the average daily attendance in all of the schools of a district for the first six months in which school is in session has declined below the corresponding period of either of the previous two school years, or (b) whenever a particular kind of service is to be reduced or discontinued not later than the beginning of the following school year, when in the opinion of the

governing board it is necessary by reason of either of such conditions to decrease the number of permanent employees in the district. The governing board may terminate of not more than a corresponding percentage of its certificated employees, permanent as well as probationary, at the close of the school year. The services of the permanent employee may not be terminated while any probationary employee, or any other employee with less seniority, is retained to render a service which permanent employee is certificated and competent to render."

Notice for lay-off either for a reduction in attendance or reduction or discontinuance of a particular kind of service to take effect not later than the beginning of the following school year must be given prior to May 15. Failure to give notice establishes reemployment for the following year.

Regular employees have a right to rehire within 39 months of lay-off under specified conditions (see Section 13448 -- see Appendix A), and contract employees may be considered as not having a break in service where there is a lay-off and rehire within 39 months. (Section 13448.5 -- see Appendix A)

If the right of re-employment for part-time employees is judicially established, then the matter of lay-off must be considered. How is lay-off under Section 13447 affected? Are the causes for lay-off the same?

Another serious question is the interrelationship of lay-off of full-time employees under Section 13447 with part-time employees. Is a single roster of both used with seniority of part-time instructors ranking with full-time instructors, or is there a dual track system--one for full-time employees, and a second for part-time employees?

How does preferential reemployment as provided in the 39-month rule operate as to part-time employees? The same concern about a single tract or dual tract system as raised in lay off is pertinent in rehire considerations.

Written agreement

The impact of SB 160 on the right of re-employment for part-time employees will be subjected to opposing factors--the traditional job security concept that flows from any written agreement--for the duration of that agreement, and the reserved powers provision of SB 160.

Under SB 160, the district and exclusive agent are authorized to execute a written agreement not to exceed 3 years in duration.

Under traditional concepts of collective bargaining and written agreement, reemployment rights arise from and for the duration of the agreement. Presumably, any agreement reached between a Community College

district and the employee organization will address continuity of employment of the organization members subject to the provisions of SB 696 and the other sections of the code discussed above.

However, some question remains as to the extent of the district's authority to bargain on some aspects of such reemployment. Under SB 160 Section 3540 provides, in pertinent part:

> "Nothing contained herein shall be deemed to supersede other provisions of the Education Code and the rules and regulations of public school employers which establish and regulate tenure or a merit or civil service system or which provide for other methods of administering employer-employee relations, so long as the rules and regulations or other methods of the public school employer do not conflict with lawful collective agreements."

Thus, while district policies' rules and regulations may be contravened by agreements, those Education Code provisions on employment may not. The parties by agreement cannot supersede state law.

Moreover, in the definition of scope of representation the authority of the district to submit to bargaining is limited. Section 3543.2 provides:

> "The scope of representation shall be limited to matters relating to wages, hours of employment, and other terms and conditions of employment. Terms and conditions of employment mean health and welfare benefits as defined . . . leave and transfer policies, safety conditions of employment, class size, procedures to be used for the evaluation of employees, organizational security... and procedures for processing grievances... In addition, the exclusive representative of certificated personnel has the right to consult on the definition of educational objectives, the determination of the content of courses and curriculum, and the selection of textbooks to the extent such matters are within the discretion of the public school employer under the law. <u>All matters not specifically enumerated are reserved to the public school employer and may not be a subject of meeting and negotiating</u>, provided that nothing herein may be construed to limit the right of the public school employer to consult with any employees or employee organization on any matter outside the scope of representation." (Underscoring added.)

Thus, discharge or dismissal, for example, under Education Code Sections 13407 and 13443 nor layoff under 13447, may not be negotiated upon or modified within any written agreement. This limitation may well carry over to definitions of employees as well as their uses as described in the above discussion of "part-time," "substitutes" and "temporary" employees. While employment security may evolve by agreement of the parties on a district by district basis, the variety of such practice as well as the continued uncertainty of their status under the law and compel the conclusion that legislation is still in order.

These, as well as the basic right of re-employment issue, are best not left to speculation and variety of conclusions and practice by the districts until finally addressed by the courts. Rather, the issues should be reviewed by the Legislature to resolve the basic policy questions.

Tenure or re-employment rights

The two organizations' reports indicated that a significant number of part-time instructors were actually full-time instructors working on an overload basis (about 25%).

Presently overload service by an instructor who has regular status is terminable at any time by the district. (Section 13338 - see Appendix A.)

The remaining component of the part-time work force -- those employed elsewhere (about 50%) and those otherwise unemployed -- raise a number of questions as to their standing in the institutional-instructor relationship.

Should reemployment rights be extended to those who have employment elsewhere? To those who may have a form of job security tantamount to tenure elsewhere?

Part-time instructors teach 45% or more of the FTE in six subject areas -- apprenticeship (68% of instruction in that area), public affairs and services (58%), law (54.4%), business and management (50%), home economics (47%), and computer and information service (45%). These six areas combined account for about one fifth of the part-time instructors.

Use of persons otherwise engaged in full-time occupations as instructors brings, as has been noted, a unique dimension to the classroom setting.

That uniqueness is dependent, however, upon the flexibility of the districts to bring in specialists for instructional purposes, without such service leading to permanent employment rights.

Any part-time employment scheme should allow for use of persons engaged in a full-time occupation to bring their expertise into the classroom without re-employment rights resulting from such employment.

What of the latitude of employment control over those who are employed elsewhere? What parietal (college-related) duties may be expected or exacted from such part-time employees who are otherwise employed full-time?

Full-time instructors have a wide variety of responsibilities beyond classroom teaching. These parietal duties include office hours, curriculum development, faculty governance functions, committee assignments, evaluation activities, counseling and advising, professional growth, college representation, institutional research, and budget review.

The specific duties vary from district to district but they are duties common to full-time certificated employees. Concommitant to reemployment rights is the expectation of participation in substantial degree of these additional responsibilities.

The remaining component of part-time instructors, between about 5,000 and 6,000, are either employed elsewhere on a part-time basis or not otherwise employed.

While more information on this category would be helpful to determine what number are persons who desire full-time positions and teach part-time for experience and access to full-time positions, and to determine what number are senior citizens or others whose preference may be for classroom experience only and not in contention for reemployment rights.

In addition, a breakdown of the actual teaching load would be helpful. The average teaching load of all part-time instructors is between 4 and 5 hours. The significance of full-time instructors teaching overload and part-time instructors otherwise employed full-time in determining this average teaching load is not known.

Those favoring re-employment rights for part-time instructors argue that part-time instructors deserve the same measure of job security as full-time instructors. Of particular concern is the problem of termination of employment without a hearing. In some instances, part-time instructors are merely notified that they are not scheduled to teach for the next quarter or semester and are not informed when they might be employed again. The proponents of tenure also argue that this uncertainty concerning how long part-time instructors may be allowed to teach in the Community College district has an adverse effect upon their teaching effectiveness.

Those opposing part-time tenure point out that it is impractical because it removes the needed flexibility which Community Colleges must maintain if they are to meet adequately the various community requests for a variety of educational programs. Community Colleges must be able to discontinue courses and programs no longer in demand and must be able to offer these on a pilot basis to determine whether a sustained interest in them exists or whether they must be discontinued. Not wishing to provide tenure for part-time instructors does not necessarily mean that an institution wishes to exploit its part-time instructors. It may merely mean that a college does not wish to lose the flexibility to act expeditiously when needs arise or when previous needs no longer exist.

Another consideration is the cost factor of extending re-employment rights to part-time employees. Included would be administrative costs for providing some form of notice and hearing such as described for the second-year contract employee. While projected costs are difficult because of the variables involved (man days for hearing, number of requests for such hearing, basis for temination), they can be considerable.

Generally, hearings are conducted by a hearing officer with a reporter (although not required). State cost for these are $44 and $24 per hour. In addition, the district must pay for counsel as well as salary for witness, etc.

Multiplied by the great number of possible requests for hearings, the large number of part-time employees clearly indicates potentially a great deal of cost to the districts.

Legislation needed

Remedial legislation should accomplish at least the following:

1) All provisions governing employment of certificated personnel in K-12 should be separated from those governing the Community Colleges.

The two-year probationary period for Community Colleges versus the three-year period in K-12 constitutes an integral part of classification and re-employment in the respective systems. Separation of the applicable governing laws will be a major step in clarifying the requirements of classification as well as eliminating adverse effects of new legislation designed to affect only one system.

2) Clarification of different types of employees with definition for each:

Temporary, substitute and part-time employees should be defined separately. In addition, limitations on reemployment, if any, and consequences of reemployment should be described separately for each type of employee.

Alternatives for Board position

1. Reaffirmation of effort to clarify provisions of the Education Code as to part-time employees without any form of reemployment rights.

This position may be based on the following:

a. Re-employment rights for part-time faculty remove the flexibility which colleges must have to respond to community requests for various kinds of educational programs. Under a system of re-employment rights for part-time instructors, colleges will be much more hesitant to start programs which may be needed for a short duration if during the time these programs are in existence the instructors in such programs can achieve permanent status.

b. Permanent status for part-time faculty will remove the flexibility which colleges now have to select as part-time instructors persons with special experience and up-to-date knowledge in subject areas where such knowledge and experience are essential for effective teaching.

2. Clarification with re-employment rights.

This position may be based upon any or all of the following:

a. Re-employment rights provide part-time instructors with needed job security. Part-time faculty members deserve the same peace of mind regarding their future with the college as do full-time instructors. Such peace of mind can be a determining factor in the way instructors carry out their teaching responsibilities.

b. Re-employment rights enhance the self image of part-time instructors and improve their working relationship with full-time faculty. It is quite conceivable that if part-time instructors are allowed to obtain permanent standing, they will no longer be treated as "second-class" citizens in the academic community. Instead, they will be granted full status as a partner-- albeit on a part-time basis--in the educational affairs of the institution.

c. Re-employment rights for part-time instructors enable those attending college to experience greater continuity in the quality of instruction which they receive. It can be expected reasonably that under tenure the turnover in part-time faculty will be less.

d. Judicial construction of current provisions of law and notions of due process as applied to those laws is leading to a concept of a right to notice and hearing tantamount to rights of full-time employees.

e. The enactment of SB 160, reserving tenure for full-time employees, but including part-time employees within the negotiation process, enhances the need for parallel treatment of full and part-time employees.

Alternative forms of tenure or rights of re-employment could be considered by the Board for submission to the Legislature:

The Board may suggest that a right to notice and hearing be offered to those part-time instructors, not otherwise affiliated with the institution, only when the district wishes to continue offering the same course in the same time slot, but not to employ the same instructor for such course.

The hearing would relate to the capability of the instructor in much the same way a full-time second-year contract employee, discussed above, is governed.

This approach subsumes an opportunity for evaluation of the particular employee. With the right to a hearing now afforded only to second-year contract employees, one might carry the evaluative period for part-time instructors beyond the two-year statutory scheme and require a comparable period of employment by the part-time instructor before the right to notice and hearing attach.

Another approach is to establish a lower limit of hours of teaching load, below which the part-time instructor has no re-employment rights, and above which such part-time employees are to be treated in the same manner as full-time employees.

An example of this approach would be to provide, statutorily, that persons employed to teach a minimum number of units or less per week do not obtain reemployment rights, but above that limit, if reemployed for a minimum number of successive years, obtain the same right as full-time contract employees.

3. Adopt no position on part-time employment, and sponsor no legislation for clarification.

This position could be predicated on the assumption that either SB 160 will eliminate or mitigate the problems connected with part time employment, thus eliminating need for legislation, or it is appropriate to allow the process of SB 160 to attempt to resolve the problem with Board review at a later time. In this regard, SB 160 expressly encourages the new state board to recommend legislation "to accomplish the purposes" of SB 160. That purpose is to "promote the improvement of personnel management and employer-employee relations within the public school systems in... California," and will no doubt include consideration by that board of the issues presented in this item.

Pro-rata pay

As indicated in the discussion of SB 160, collective bargaining will no doubt have substantial impact upon the rate of pay for part-time instructors as well as rate of pay for those full-time instructors teaching overload.

Twenty percent of faculty salary expenditures are paid to part-time instructors, while the remaining 80% are paid to full-time instructors (see Appendix B). The part-time faculty salary expenditure is about 12% of budgeted current expense of education, though this varies significantly from district to district. The share of total faculty salary expenditures paid to part-timers is higher where:

(a) colleges are larger,

(b) proportions of part-time students and part-time faculty are higher,

(c) districts are located in an urban setting with extensive outreach centers, and

(d) district wealth is lower.

Districts' revenue bases per ADA are inversely and significantly related to the use of part-time instructors. Thus, use of part-time instructors does appear important in constraining expenditures.

Part-time faculty teach about 40% of the Community College instructional workload, for which they are paid less than one-fourth of total faculty salaries. Estimates of the cost of increasing part-time salaries toward a pro-rata basis with full-time salaries are difficult for two major reasons: (a) problems in defining comparable duties and (b) problems in determining the location of part-time instructors if distributed on a full-time salary schedule which has steps predicated upon education and experience.

The key to determining comparable duties is to isolate that activity for which the full-time instructor is paid but which may not be expected of the part-time instructor: administrative and instructional policy-making, curriculum development, public service, and possibly, maintaining office hours.

A number of recent studies indicate that part-time instructors typically possess less academic preparation and less teaching experience than full-time instructors (see Lombardi, 1975 and Peralta study, 1974). The few data available and suggest that part-time instructors would cluster around the first quartile of the full-time salary schedule in most districts, based upon education and experience.

Several estimates of the cost to achieve pro-rata pay for part-time instructors in California Community Colleges have been attempted. Estimates for 1974-75 range between $32 and $214 million and between $0 and $90 million. The Chancellor's Office's latest estimate of the statewide cost to achieve full pro-rata pay for part-time instructors during 1976-77 is $103 million (see Appendix B). This (a) is based upon projected increases in staff and salaries, (b) excludes fringe benefits, and (c) assumes that only course work (with equal time spent in and out of class) is expected of part-time instructors.

The increase in state foundation program under SB 6 (beginning 1973-74) made the risk of over-estimating ADA for budget purposes about 50% more risky than before. This incentive toward conservative projections and the increasing uncertainty of enrollments make the flexibility inherent in use of the part-time instructor attractive. As noted, Chancellor's Office preliminary analysis of CCCT/CSBA data indicates that the most significant factor contributing to use of part-time instructors is large one-year growth in college enrollment.

Some persons have charged that in general the rate of pay for part-time instructors is not commensurate to the service which these instructors provide and does not adequately compensate for teacher preparation time, time spent in conferences with students, as well as the actual time spent in the classroom. In addition, fringe benefits are not provided in any direct proportional way to what full-time instructors receive.

Those defending the present system argue that the pay and fringe benefits do constitute fair remuneration for the services which Community Colleges contract with part-time instructors to perform. In general, part-time faculty members are not required to perform all the tasks required of full-time faculty members. For example, they are not expected to serve on various campus committees, nor are they expected to perform community services to the same extent as full-time faculty members. Therefore, it may be unrealistic to expect part-time faculty members to receive salary and fringe benefits on a proportional basis to those received by a full-time faculty.

Possible Board Position on Pro Rata Pay

Support position. There are several reasons why the Board may wish to support pro rata pay:

a. Pro rata pay is a practical means of adhering to the concept of "equal pay for equal work." It is the fairest way of compensating those who work part-time because it pays them on the same basis as it pays full-time personnel.

b. Pro rata pay enhances the self-image of part-time instructors and improves their working relationship with full-time faculty.

c. Pro rata pay discourages the disproportionate use of part-time faculty, since colleges will no longer be inclined to use part-time instructors as a means of saving salary costs. Thus, a proper balance of part-time to full-time faculty will be maintained.

Oppose position to statewide mandation. There are also reasons why the Board may wish to oppose state-mandated pro rata pay:

a. Legislation requiring Community College districts to provide pro rata pay to part-time instructors would take away the right of local control in one of the most important areas of local concern - fiscal responsibility.

b. Pro rata pay would require larger amounts of state funds to assist local districts in meeting their increased financial load. With the current dual problem of inflation-recession, the state is not in a position to provide such additional financial assistance.

c. Lacking additional state funds with which to meet the increased cost, there could be a curtailment of educational programs, and consequently, a weakening of the institution's ability to meet the educational needs of the community.

The Board could also base its opposition to mandated pro rata pay for part-time instructors because of the Board's philosophy regarding local options for Community Colleges and also because of the Board's relationship to Community College districts as specified in state statutes.

With regard to the Board's philosophy, the Board has always taken a firm position that local options for Community Colleges should be strengthened and maintained. It has felt that strong district control constitutes the greatest assurance that the educational needs of citizens within each Community College district will be met effectively and efficiently. In accordance with this philosophy, the Board may justifiably decide that the problem of determining whether a district should provide pro rata pay to its instructors is a matter which should rest with the district. Any intrusion by the Board of Governors in this matter may further erode the authority of local Community College districts.

Moreover, collective bargaining for instructors has put the matter of pay between the employing district and instructor, and a statewide mandated pro rata pay would unduly interfere with the give and take of the bargaining process.

APPENDIX A

APPENDIX

§ 13309. Tenure of teacher of classes for adults

When a teacher of classes for adults serves sufficient probationary time as provided in Sections 13304 to 13307 and 13328 to be eligible for election to permanent classification in that district, his tenure shall be for such service as is equivalent to the average number of hours per week which he has served during his probationary years. In no case shall such an employee be classified as permanent for more than one full-time assignment. The service for which such a person has acquired tenure may be reduced in conformity with Sections 13447 and 13448.

Notwithstanding any other provision to the contrary, in a district which has, or in a district which is one of two or more districts governed by governing boards of identical personnel which have a combined, average daily attendance of 400,000 or more, as shown by the annual report of the county superintendent of schools for the preceding fiscal year, no person who is assigned 10 hours or less a week in adult classes in such a district shall be eligible for election to permanent classification in such district on account of such assignment in adult classes.

§ 13328. Complete school year for probationary employees

A probationary employee who, in any one school year, has served for at least 75 percent of the number of days the regular schools of the district in which he is employed are maintained shall be deemed to have served a complete school year. In case of evening schools, 75 percent of the number of days the evening schools of the district are in session shall be deemed a complete school year.

§ 13333. Substitute and probationary employment in computation for classification as permanent employee

If an employee of a school district has served as a probationary employee of the district in a position requiring certification qualifications, for one complete school year, and in the year immediately preceding the service as probationary employee has served as a substitute employee, or as a substitute and probationary employee, serving in both capacities during the same school year in the schools of the district, at least 75 percent of the number of days the regular schools of the district were maintained, the governing board of the district may count the year of employment as a substitute or as a substitute and probationary employee as one year of the probationary period which he is required by law to serve as a condition to being classified as a permanent employee of the district.

§ 13334. Classification of probationary employees

Governing boards of school districts shall classify as probationary employees, those persons employed in positions requiring certification qualifications for the school year, who have not been classified as permanent employees or as substitute employees.

§ 13336. Classification of substitute employees

Except as provided in Sections 13337.3 and 13337.5, governing boards of school districts shall classify as substitute employees those persons employed in positions requiring certification qualifications, to fill positions of regularly employed persons absent from service.

After September 1 of any school year, the governing board of any school district may employ, for the remainder of the school year, in substitute status any otherwise qualified person who consents to be so employed in a position for which no regular employee is available, including persons retired for service under the State Teachers' Retirement System. Inability to acquire the services of a qualified regular employee shall be demonstrated to the satisfaction of the Commission for Teacher Preparation and Licensing.

Any person employed for one complete school year as a temporary employee shall, if reemployed for the following school year in a position requiring certification qualifications, be classified by the governing board as a probationary employee and the previous year's employment as a temporary employee shall be deemed one year's employment as a probationary employee for purposes of acquiring permanent status.

§ 13336.5. Substitute or Temporary Employee Deemed Probationary Employer; Reemployment Rights

Any employee classified as a substitute or temporary employee, who serves during one school year at least 75 percent of the number of days the regular schools of the district were maintained in such school year and has performed the duties normally required of a certificated employee of the school district, shall be deemed to have served a complete school year as a probationary employee if employed as a probationary employee for the following school year.

Any such employee shall be reemployed for the following school year to fill any vacant positions in the school district for which the employee is certified.

For purposes of this section "vacant position" means a position in which the employee is qualified to serve and which is not filled by a permanent or probationary employee. It shall not include a position which would be filled by a permanent or probationary employee except for the fact that such employee is on leave.

Any employee classified as a substitute or temporary employee who has rendered the service required to qualify under this section but who has not been reemployed due to a lack of a vacant position shall be reemployed as a substitute or temporary employee for the following school year.

In any district in which appointments are made from eligible lists established by examination, special eligible lists shall be established at the end of each school year which consist of the names of those employees who met the requirements of this section. Such lists shall be in rank order based on the final scores established by examination. Such lists shall be valid for at least two school years. Offers for appointments to probationary status during the ensuing school year shall be made from such special eligible lists established by examination; provided, however, permanent or probationary employees terminated during the preceding 39 months pursuant to Section 13447, shall be given priority in employment over persons on such special eligible lists.

Those employees classified as substitutes, and who are employed to serve in an on-call status to replace absent regular employees on a day-to-day basis shall not be entitled to the benefits of this section.

§ 13337. Classification of temporary employees

Governing boards of school districts shall classify as temporary employees those persons requiring certification qualifications, other than substitute employees, who are employed to serve from day to day during the first three school months of any school term to teach temporary classes not to exist after the first three school months of any school term or to perform any other duties which do not last longer than the first three school months of any school term, or to teach in special day and evening classes for adults or in schools of migratory population for not more than four school months of any school term. If the classes or duties continue beyond the first three school months of any school term or four school months for special day and evening classes for adults, or schools for migratory population, the certificated employee, unless a permanent employee, shall be classified as a probationary employee. The school year may be divided into not more than two school terms for the purposes of this section.

§ 13338. Termination of extra assignment of full-time permanent employee

In the event a permanent employee of a school district has tenure as a full-time employee of the district, any assignment or employment of such employee in addition to his full-time assignment may be terminated by the governing board of the district at any time.

§ 13345. [Application of article and other provisions]

The provisions of this article govern the employment of persons by a district to serve in positions for which certification qualifications are required and establish certain rights for such employees. Other provisions of the law which govern the employment of persons in positions requiring certification qualifications by a school district or establish rights and responsibilities for such persons shall be applied to persons employed by community college districts in a manner consistent with the provisions of this article.

§ 13345.05. [Definitions]

For the purposes of this article:

(a) "Contract employee" means an employee of a district who is employed on the basis of a contract in accordance with the provisions of Section 13346.05 or subdivision (b) of Section 13346.20.

(b) "District" means a community college district.

(c) "Positions requiring certification qualifications" are those positions which provide the services for which certifications have been established in this code.

(d) "Regular employee" means an employee of a district who is employed in accordance with the provisions of subdivision (c) of Section 13346.20 or Section 13346.25.

(e) "Academic year" means that period between the first day of a fall semester or quarter and the last day of the following spring semester or quarter.

§ 13346. Classes of certificated persons

The governing board of a district shall employ each certificated person as one of the following: contract employee, regular employee, or temporary employee.

§ 13403. Grounds for dismissal of permanent employee

No permanent employee shall be dismissed except for one or more of the following causes:

(a) Immoral or unprofessional conduct.

(b) Commission, aiding, or advocating the commission of acts of criminal syndicalism, as prohibited by Chapter 188, Statutes of 1919, or in any amendment thereof.

(c) Dishonesty.

(d) Incompetency.

(e) Evident unfitness for service.

(f) Physical or mental condition unfitting him to instruct or associate with children.

(g) Persistent violation of or refusal to obey the school laws of the state or reasonable regulations prescribed for the government of the public schools by the State Board of Education or by the governing board of the school district employing him.

(h) Conviction of a felony or of any crime involving moral turpitude.

(i) Violation of Section 9031 of this code or conduct specified in Section 1028 of the Government Code, added by Chapter 1418 of the Statutes of 1947.

(j) Violation of any provision in Sections 12952 to 12958, inclusive, of this code.

(k) Knowing membership by the employee in the Communist Party.

§ 13447. Reduction in number of permanent employees

No permanent employee shall be deprived of his position for causes other than those specified in Sections 13313, 13327 and 13338, and Sections 13403 to 13441, inclusive, and no probationary employee shall be deprived of his position for cause other than as specified in Sections 13442 and 13443, except in accordance with the provisions of Section 13319 and Sections 13447 to 13452, inclusive.

Whenever in any school year the average daily attendance in all of the schools of a district for the first six months in which school is in session shall have declined below the corresponding period of either of the previous two school years, or whenever a particular kind of service is to be reduced or discontinued not later than the beginning of the following school year, and when in the opinion of the governing board of said district it shall have become necessary by reason of either of such conditions to decrease the number of permanent employees in said district, the said governing board may terminate the services of not more than a corresponding percentage of the certificated employees of said district, permanent as well as probationary, at the close of the school year; provided that the services of no permanent employee may be terminated under the provisions of this section while any probationary employee, or any other employee with less seniority, is retained to render a service which said permanent employee is certificated and competent to render.

Notice of such termination of services either for a reduction in attendance or reduction or discontinuance of a particular kind of service to take effect not later than the beginning of the following school year, shall be given before the 15th of May in the manner prescribed in Section 13443, and services of such employees shall be terminated in the inverse of the order in which they were employed, as determined by the board in accordance with the provisions of Sections 13262 and 13263 of this code. In the event that a permanent or probationary employee is not given the notices and a right to a hearing as provided for in Section 13443, he shall be deemed reemployed for the ensuing school year.

The board shall make assignments and reassignments in such a manner that employees shall be retained to render any service which their seniority and qualifications entitle them to render.

§ 13448. Rights of terminated permanent employee

Any permanent employee whose services have been terminated as provided in Section 13447 shall have the following rights:

1. For the period of 39 months from the date of such termination, any employee who in the meantime has not attained the age of 65 years shall have the preferred right to reappointment, in the order of original employment as determined by the board in accordance with the provisions of Sections 13252 to 13273, inclusive, if the number of employees is increased or the discontinued service is reestablished, with no requirements that were not imposed upon other employees who continued in service; provided, that no probationary or other employee with less seniority shall be employed to render a service which said employee is certificated and competent to render.
2. The aforesaid right to reappointment may be waived by the employee, without prejudice, for not more than one school year, unless the board extends this right, but such waiver shall not deprive the employee of his right to subsequent offers of reappointment.

3. As to any such employee who is reappointed, the period of his absence shall be treated as a leave of absence and shall not be considered as a break in the continuity of his service, he shall retain the classification and order of employment he had when his services were terminated, and credit for prior service under any state or district retirement system shall not be affected by such termination, but the period of his absence shall not count as a part of the service required for retirement.

4. During the period of his preferred right to reappointment, any such employee shall, in the order of original employment, be offered prior opportunity for substitute service during the absence of any other employee who has been granted a leave of absence or who is temporarily absent from duty; provided, that his services may be terminated upon the return to duty of said other employee, that the compensation he receives shall be not less than the amount he would receive if he were being reappointed, and that said substitute service shall not affect the retention of his previous classification and rights.

4a. During the period of the employee's preferred right to reappointment, the governing board of the district, if it is also the governing board of one or more other districts, may assign him to service, which he is certificated and competent to render, in said other district or districts: provided, that the compensation he receives therefor may in the discretion of the governing board be the same as he would have received had he been serving in the district from which his services were terminated, that his service in the said other district or districts shall be counted toward the period required for both state and local retirement, as defined by Section 13822 of this code, as though rendered in the district from which his services were terminated, and that no permanent employee in said other district or districts shall be displaced by him.

It is the intent of this subsection that the employees of a school district, the governing board of which is also the governing board of one or more other school districts, shall not be at a disadvantage as compared with employees of a unified school district.

5. At any time prior to the completion of one year after his return to service, he may continue or make up, with interest, his own contributions to any state or district retirement system, for the period of his absence, but it shall not be obligatory on State or district to match such contributions.

6. Should he become disabled or reach retirement age at any time before his return to service, he shall receive, in any state or district retirement system of which he was a member, all benefits to which he would have been entitled had such event occurred at the time of his termination of service, plus any benefits he may have qualified for thereafter, as though still employed.

§ 13448.5. [Rights of probationary employee terminated under § 13447]

Any probationary employee whose services have been terminated as provided in Section 13447 shall have the following rights:

(a) For the period of 24 months from the date of such termination, any employee who in the meantime has not attained the age of 65 years shall have the preferred right to reappointment, subject to the prior rights to reappointment by all permanent employees as set forth in Section 13448, in the order of original employment as determined by the governing board in accordance with the provisions of Sections 13252 to 13273, inclusive, if the number of employees is increased or the discontinued service is reestablished, with no requirements that were not imposed upon other employees who continued in service; provided, that no probationary or temporary employee with less seniority shall be employed to render a service which such employee is certificated and competent to render and provided that such an employee shall be given a priority over employees whose right to a position is derived pursuant to Section 13336.5.

(b) As to any such employee who is reappointed, the period of his absence shall be treated as a leave of absence and shall not be considered as a break in the continuity of his service, he shall retain the classification and order of employment he had when his services were terminated, and credit for prior service under any state or district retirement system shall not be affected by such termination; provided, however, that the period of his absence shall not be counted as a part of the service required for attaining permanent status in the district or, except as provided in subdivision (c), for retirement purposes.

(c) During the period of his preferred right to reappointment, any such employee shall, in the order of original employment, and subject to the rights of permanent employees as set forth in Section 13448, be offered prior opportunity for substitute service during the absence of any other employee who has been granted leave of absence or who is temporarily absent from duty; provided, that his services may be terminated upon a return to duty of such other employee, that such substitute service shall not affect the retention of his previous classification and rights, and that such an employee shall be given a priority over employees whose right to a substitute position is derived pursuant to Section 13336.5.

(d) At any time prior to the completion of one year after his return to service, an employee reappointed under the provisions of this section may elect to continue or to reinstate his membership and interest in any state or district retirement system and to receive retirement benefits as if no absence from service had occurred. In the event of such election the employee shall pay into the retirement system the amount of his share of contribution and the district's share of contribution attributable to the period of absence and the amount of any contributions withdrawn, plus interest.

Added Stats 1974 ch 864 § 1.

§ 13480. Provisions of article

The provisions of this article govern the evaluation of, the dismissal of, and the imposition of penalties on, certificated personnel employed by a community college district. Other provisions of this code which govern the evaluation of, dismissal of, and the imposition of penalties on, certificated personnel employed by a school district shall be applied to persons employed by a community college district in a manner consistent with the provisions of this article.

§ 13482. Temporary employee: Termination

The governing board may terminate the employment of a temporary employee at its discretion at the end of a day or week, whichever is appropriate. The decision to terminate the employment is not subject to judicial review except as to the time of termination.

§ 25490. Application of chapter

The provisions of this chapter apply to all persons employed by a community college district in positions requiring certification qualifications.

§ 25490.25. Employment period of substitute and short-term employees

Substitute and short-term employees shall be employed, beginning on the operative date of this act, as temporary employees.

APPENDIX B

PRELIMINARY ANALYSIS OF PART-TIME FACULTY
CALIFORNIA COMMUNITY COLLEGES

(Analysis of CCCT Survey Data)

This brief preliminary analysis was conducted by the Analytical Studies Unit of the Chancellor's Office. Data on faculty use are derived from a survey conducted by Mr. Don Ross for the California Community College Trustees (CCCT) of the California School Boards Association (See survey instrument in Attachment A). Other data, describing district characteristics are derived from Chancellor's Office sources. (See specification for all variables in Attachment B.)

When the first version of this analysis was prepared, for the April 1975 Board of Governors agenda, 52 of 69 districts had responded to the CCCT survey. Several large, urban districts were among the 17 not yet reporting. Relationships identified in this preliminary analysis suggested that exclusion of the seventeen districts might have introduced some understatement about the use of certain part-time faculty. Seven additional districts have reported. Their inclusion, however, has not significantly changed the results of the original analysis.

USE

Descriptions of use of part-time faculty by Community College districts may be developed in terms of (a) individuals, (b) positions, or (c) full-time equivalents. Returns from the 59 districts indicate that an estimated 30,800 faculty are teaching in 36,500 positions. This is because about 5,700 faculty teach both full time and part time. Put differently: of the more than 12,300 regular full time faculty reported to be employed in the 59 districts, nearly 5,700 or 46 percent, also teach part time for extra pay (see Tables 1, 2 and 3).

Of individual faculty members,

21% teach only full time
60% teach only part time
19% teach both full time and part time.

Only about ten of the districts surveyed employ less than half of their faculty on a part-time only basis. Two-thirds of the districts fall between 50 and 72 percent. The remaining ten districts exceed 72 percent in their use of part time only faculty.

Two-thirds of faculty positions are filled on a part-time basis, while one-third of faculty positions are filled on a full-time basis. Consequently, in terms of full time equivalent staff (FTE), it is likely that the overall ratio of part-time FTE faculty to total FTE faculty is less than 50 percent.

Assume the position data from this study (where 2/3 are part-time and 1/3 are full-time) are converted to FTE where one regular FTE handles 15 teaching units. For the part time FTE to total FTE ratio to be 50 percent would assume an average load for each part-timer to be 7.5 units, something between two and three courses. Likewise, if each part timer handles

6 units on average, part-time FTE ratio would be	44%
5 units	40%
4 units	35%
3 units	29%

In general, variation in use of part-time individuals from district to district might be expected to be a function of district organization and location, student characteristics, growth patterns and, perhaps, financial situation. Correlations in Table 4 and regression results shown in Table 5 indicate that use of part-time individuals is higher where

(a) one-year enrollment growth is higher, particularly in evening and part-time students,
(b) evening student ratio is higher,
(c) districts are older (an unexpected result),
(d) districts are poor (in AV per ADA),

and moderately related also to

(e) urban location.

Notably, variation in use of part-timers is generally unrelated statistically to long-term (five year) growth, extent of "outreach" centers, part-time student ratio, and local unemployment conditions.

BUDGETS

Of estimated 1974-75 faculty salary expenditures, 20 percent are paid to part-timers while the remaining 80 percent are paid to full-timers (see Table 6). The part-time faculty salary expenditure is about 12 percent of budgeted current expense of education, though this varies significantly from district to district. The share of faculty salary expenditures paid to part-timers appears to be higher where,

(a) average college size is larger,
(b) part-time student and faculty ratios are higher,
(c) districts are located in an urban setting with extensive out-reach centers, and
(d) district wealth is lower.

The part-time share of faculty salaries does not appear to significantly influence differences in revenue base per ADA among districts; other factors are more important. However, the revenue base per ADA is inversely and significantly related to the ratio describing use of part-time individuals. Thus, their use does appear important in constraining expenditures.

PRO RATA PAY

Part-time faculty teach nearly 40% of the Community College instructional workload, for which they are paid less than one-fourth of total faculty salaries. Estimates of the cost of increasing part-time salaries toward a pro-rata basis with full-time salaries are difficult for two major reasons: (a) problems in defining comparable duties, and (b) problems in determining the location of part-timers if distributed on a full-time salary schedule which has steps predicated upon education and experience.

The key to determining comparable duties is to isolate that activity for which the full-timer is paid but which may not be expected of the part-timer: administrative and instructional policy-making, curriculum development, public service, and possibly, maintaining office hours.

A number of recent studies indicate that part-time instructors typically possess less academic preparation and less teaching experience than full-timers (see Lombardi, 1975 and Peralta study, 1974). The few data that are available suggest that part-timers would cluster around the first quartile of the full-time salary schedule in most districts, based upon education and experience.

Several estimates of the cost to achieve pro-rata pay for part-time instructors in California Community Colleges have been attempted. Estimates for 1974-75 range between $32 and $214 million and between $0 and $90 million. The Chancellor's Office latest estimate of the statewide cost to achieve full pro-rata pay for part-timers during 1976-77 is $103 million (see Table 6A). This (a) is based upon projected increases in staff and salaries, (b) excludes fringe benefits, and (c) assumes that only course work (with equal time spent in and out of class) is expected of part-time instructors.

SOURCES

Part-time faculty may be described in terms of their other activities (see Table 7). In order of use, districts surveyed rely upon (1) employed non-teachers, (2) full-time faculty, (3) individuals who apparently are either employed part time elsewhere or are unemployed, (4) K-12 teachers, (5) day-time part timers whose other activities are not specified and (6) faculty from other postsecondary institutions.

Employed non-teachers constitute nearly one-third of all part-time faculty. Variation in their use from district to district appears difficult to explain (see Table 8). However, districts' age, recent one-year growth, and district wealth seem to be more important predictors of employed non-teacher use than are other variables. Use also appears (a) directly related to long-term growth in ungraded enrollment and (b) inversely related to use of day part-timers.

The next most important source of part-time teachers is faculty who teach full time during the day and teach part time in the evening for extra pay. Of the more than 24,000 part-time faculty, nearly 6,000 are also full-time

faculty. As noted, some 46 percent of full-time faculty also teach part time. Results of review of interdistrict variation in use of regular faculty are not significant (see Table 8). However, such use does appear to be inversely related to total long-term growth; i.e., the use of regular faculty in part-time positions is high where a district's five-year enrollment growth has been low. Use is also high where total part-time faculty use is low. Finally, the part-time student ratio is moderately related to use of regular faculty, but not in the expected direction.

Use of K-12 teachers, nearly 18 percent of part-time evening faculty, is highest in older rural districts with (a) small-sized colleges, (b) higher than average revenue bases, and (c) who've experienced high one-year enrollment increases. K-12 teacher use is also high where relative use of day part-timers is low.

Use of day part-timers, then, is high where use of K-12 teachers is low. Day part-timers are more often used in large urban districts with extensive out-reach centers and where long-term growth in defined adults has been significant.

Table I

. USE OF PART-TIME FACULTY

	People		Positions	
	N	Ratio	N	Ratio
Day				
Full-time only	6,326	.21	12,059	.33
Part-time	2,400	.08	2,400	.06
Evening				
Full-time only	245	.01	245	.01
Part-time				
Regular Faculty*	5,733	.19	5,733	.16
Elsewhere Employed				
Industry/Profess.	6,443	.21	6,443	.18
K-12	2,933	.10	2,933	.08
Other PSE	651	.02	651	.02
Other	3,279	.11	3,279	.09
Source Not Reported**	2,771	.08	2,771	.07
Totals	30,781		36,514	
Full-time	6,571	.21	12,304	.34
Part-time	18,477	.60	24,210	.66
Both	5,733	.19		
Day	8,726	.28	14,459	.40
Evening	16,322	.53	22,055	.60
Both	5,733	.19		

* Also teach full time during the day.
** Some districts did not report the source of part-time faculty who were not also full-time.

SOURCE: CCCT Survey, 1975 (59 of 69 districts responding).

Table 5

REGRESSION RESULTS, FACTORS RELATED TO USE OF PART-TIME FACULTY

R^2	.480[a]	.124	.492[a]	.465[a]	.354[a]	.186[c]
Standardized Coefficients for Independent Variables						
District Age	.435[a]	.280	.372[b]	.372[b]	.523[a]	.195
1 yr. growth	.652[a]		.665[a]	.669[a]		.264[d]
5 yr. growth		.223				
Ave. Campus Size	-.379[d]		-.307			
Geographic Location	-.155		-.209	-.100	-.081	
Unemploy. rate	.015		-.029	.005	-.039	
Av. Per ADA	-.258[c]	-.121	-.248[c]	-.224[c]	-.205[d]	-.138
Ratio of Part-time Students	.164	.247				
Centers/Campus	.067	-.373[c]	.082	-.109	-.084	-.279[c]
Ration of Evening Students			.196	.214[d]	.281[c]	.334[c]
Regression Constant	-.442	.241	-.389	-.490	-.253	.275

NOTES: R^2: The multiple correlation squared or variation in part-time use "explained" by independent variables; standardized coefficients are regression coefficients adjusted for differences in scale of measurement for variables - these coefficients may thus be compared for "relative predictive power" of each independent variable.

Significance of t-test,
- a: $P < .001$
- b: $.001 < P < .010$
- c: $.010 < P < .050$
- d: $.050 < P < .100$

SOURCE: CCCT survey; CCAF-311 plus other Chancellor's Office survey data.

Table 6

ESTIMATED 1974-75 EXPENDITURES

	(In millions)
Regular Faculty Salaries*	$287.2
Part-time Faculty Salaries*	72.5
Current Expense of Education (CEE)	613.5

* Approximations from object of expenditure categories 1100 and 1300, CCAF-311.

SOURCES: CCAF-311 for 59 districts responding to CCCT Survey.

Table 6A

ESTIMATE OF PRO RATA PAY FOR
PART-TIME COMMUNITY COLLEGE INSTRUCTORS

ASSUMPTIONS

A. Both full-time and part-time faculty work one hour out of class (on class work such as preparation, grading papers, etc.) for every hour spent in class.

B. Full-time faculty work a 40 hour week composed of:

15 hr. in class (WCH)

15 hr. class prep time

5 hr. office

5 hr. division, department committees, curriculum development, etc.
40 hr.

C. Salary is paid full-timers on the basis of a 40 hour week.

D. Estimated 1975-76 Median salary for full-time instructors: $19,350 and estimated 1975-76 First Quartile for full-time instructors: $16,000.

E. The 15 hours in class plus the 15 hours prep are the only hours a full-timer spends that are comparable to the work a part-timer does.

F. Therefore, at 35 weeks/yr x 30 hours/wk = 1050 hrs/yr, 16,000 ÷ 1050 = $15.24/hr is the median full-timer's wage for applicable hours worked.

G. On the average, the part-timers in graded courses work 30% of a full-time equivalent position (see CCJCA Study) in class or 4.5 hours. Part-timers in ungraded courses work 20% of a load or 3 hours in class.

(15 x .3 = 4.5; 15 x .2 = 3) (est)

The part-timer's applicable hours are:

Graded	Ungraded
4.5 hr in class	3 hr in class
4.5 hr class prep	3 hr class prep
9 hr.	6 hr.

H. Several studies indicate that districts pay part-timers a median wage of $12.50 per in-class hour. This translates to $6.25 per hour for applicable hours worked for part-time.

I. In 1974-75 there were 27,532 part-time instructors working an average of 315 hours per year (9 hr/wk x 35 wk/yr) or a total 8,672,580 hours per year in graded courses. Added to this are 4400 part-time instructors in ungraded courses at an estimated average of 210 hours/year (6 hr/wk x 35 wk/yr) or 924,000 hours per year. This totals to 9,596,580 hours in 1974-75 for all part-timers.

J. This 9,596,580 hours increases to 10,426,684 hours worked by part-time instructors with a 8.65% growth in WCH from F74 to F75.

ESTIMATE

	74-75	75-76	76-77
Estimated Median Full Time Salary	18,000	19,350	20,705
Estimated First Quartile Full Time Salary		16,000	17,120
% increase		7.5%	7%
Full Time hourly wage at 1050 hr/yr or 30 applicable hours/wk		15.24	16.30
Part Time wage at applicable hours	6.25	6.72	7.20
Differential		8.52	9.10
% increase in WCH		8.65%	9.0%
Applicable P. T. Hours	9,596,580	10,426,684	11,365,086
New $ needed for pro rata pay		$88,835,347	$103,422,280

* It is assumed that the relevant education and experience of part-time instructors is such that their median placement on the typical full-time schedule would occur at the first-quartile of the distribution of full-time instructors.

Table 7

SOURCES OF PART-TIME FACULTY POSITIONS

	N	Ratio	Ratio Evening
Day	2,400	.11	.30
Evening			
Regular Faculty	5,733	.27	.30
Elsewhere Employed			
Non-teachers	6,443	.30	.34
K-12	2,933	.14	.16
Other PSE	651	.03	.03
Other	3,279	.15	.17
Subtotal	21,439		
Sources not reported	2,771		
Total	24,210		

SOURCE: CCCT Survey, 1975: 59 districts reporting.

Table 8

REGRESSION RESULTS, FACTORS
RELATED TO SOURCES OF PART-TIME FACULTY

		Employed Non-Teachers	Regular Faculty	K-12	Day Part-Timers
	R^2	.252[d]	.131	.410[a]	.254[c]
	Standardized Coefficients for Independent Variables				
D1	District Age	.298[e]	-.109	.349[b]	-.225
R17	1 year growth	.252[d]	-.085	.349[c]	.058
R12	Average campus size	-.211	.105	-.205	.053
D4	Location	-.111	.094	.266[d]	-.245
D6	Unemploy. Rate	-.028	.014	-.005	-.020
B1	AV/ADA	-.289[c]	.205	.091	.088
R13	Part-time std. ratio	-.014	-.374[c]	.112	-.180
R03	Centers/Campus	-.220	.124	.002	.435[b]
	Regression Constant	-.039	.519	-.581	.193

NOTES: See Table 5.
SOURCES: See Table 5.

SOURCES:

Bender and Brueder, "Part-Time Teachers-'Step-Children' of the Community College." Community College Review, 1 (1): 29-37; April 1973.

CCCT/CSBA and CCJCA data.

Lombardi, J. Part-Time Faculty in Community Colleges. Topical Paper No. 54, ERIC Clearinghouse for Junior Colleges. Los Angeles, December, 1975.

Peralta Community College District. Part-Time Teachers. January, 1974.

ATTACHMENT A
CCCT SURVEY

TO: Don Ross, Chairman-Elect
California Community College Trustees
Antelope Valley College
3041 West Avenue K
Lancaster, California 93534

FROM: _____ (Name) _____ (College)

SUBJECT: REPORT OF UTILIZATION OF OTHER THAN REGULAR CERTIFICATED PERSONNEL

A. EVENING DIVISION

1. Total number of persons teaching courses offered in the evening division: _____

2. Number of full-time instructors of the College teaching courses in the evening division on an extra pay basis: _____

3. Number of persons recruited from off-campus sources to teach courses offered in the evening division: _____

   a. Of this total, number who are full-time employees of an elementary or secondary school district: _____

   b. Of this total, number who are full-time employees of another college or university: _____

   c. Of this total, number who are employed full-time in an occupation or profession other than teaching: _____

B. REGULAR DAY DIVISION

1. Total number of persons teaching courses offered in the regular day program: _____

2. Number of full-time instructors teaching in the regular day program: _____

3. Number of part-time instructors teaching courses in the regular day program: _____

C. ESTIMATE OF ADDED COST OF PRO-RATA PAY

1. Estimated added cost of pro-rata pay for persons teaching courses offered in the evening division of our college: _____

ATTACHMENT A
(Cont'd)

Report of Utilization of Other Than Regular Certificated Personnel

A rough estimate of the added cost can be secured by the following process:

a. For the Fall 1974 semester, compute the average hourly rate of pay for all full-time instructors teaching in the day program. (1)

b. For the Fall 1974 semester, compute the average hourly rate of pay for all part-time instructors teaching in the extended day program.

c. Take the difference AND MULTIPLY THIS DIFFERENCE by the total number of class hours of instruction offered in the evening division during the Fall 1974 semester.

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(1) Assume a 30-hour week or a 6-hour day for full-time instructors.

UNIVERSITY OF CALIF.
LOS ANGELES
MAR 11 1977
CLEARINGHOUSE FOR
JUNIOR COLLEGES